

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY**  
**WASHINGTON BOROUGH COUNCIL MINUTES -December 19, 2017**

The Business Meeting of the Borough Council of Washington, Warren County, New Jersey was held in the Council Chambers of Borough Hall at 7:00 P.M.

Roll Call: Heinrich, Higgins, Klimko, Noone, Norris, Thompson and Valle.

Also, Present: Matthew Hall, Manager  
Laurie A. Barton Borough Clerk  
Leslie Parikh, Attorney

Mayor Higgins led everyone in the flag salute.

Mayor Higgins read the following Statement into the Record:

“The requirements of the ‘Open Public Meetings Law, 1975, Chapter 231’ have been satisfied in that adequate notice of this meeting has been published in the Star Gazette and posted on the Bulletin Board of Borough Hall stating the time, place and purpose of the meeting as required by law.”

**Audience**

Jeanine Gleba, Library Board of Trustee, discussed budget concerns for the library and explained the past history of the Borough and cuts to budgets. A graph was distributed on where the library was and where it is today financially.

Rev. Bauknight, Library Board President, stated the library is looking into receiving additional funding. There are issues with staffing with two-part timers, where if one is out sick the library either closes early or closes all together. The board is putting into budget to hire two full time additional people.

Rev. Bauknight stated that all members of the board have to obtain mandatory training, including Mayor and Deputy Mayor. The board also submitted a list of items they need from the capital improvement budget.

John Monteverde, BID, thanked everyone for coming out to the hometown holiday. Mr. Monteverde thanked the police and fire department in their involvement. Two new restaurants opened up in town. The laundry-mat is now up and running since the fire.

John Valentine, Washington Ave.-Library Board Trustee, stated the importance of operating and keeping the library in the borough.

Rob Colentrelle, LMR Disposal, read a prepared statement in regards to his recent bid for garbage disposal, in which he indicated he may appeal the judges’ decision (*awarding bid to Blue Diamond*).

Chris Vitalis(sp), Chairman, Zoning Board, discussed the merger the boards (Zoning & Planning) would like to accomplish citing the difficulties in recruiting members for both boards.

Motion

Hearing no further comments, motion made by Noone and seconded by Valle to close the public portion of agenda, all were in favor.

Resolutions

Motion made by Noone and seconded by Valle to approve Resolution 2017-232.

ROLL CALL: Heinrich, Higgins, Klimko, Noone, Norris, Thompson and Valle.  
Ayes: 7, Nays: 0  
Motion carried.

**RESOLUTION 2017-232**  
**A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE**  
**As per N.J.S.A.54:5**

**KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS**, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 21, 2016 to JU Solo 401K Trust, 42 Huntington Rd, Basking Ridge, NJ 07920, in the amount of \$669.06 for taxes or other municipal liens assessed for the year 2015 in the name of Letter Perfect Homes, Inc. supposed owners, and in said assessment and sale were described as 27 Presidential Drive, Block 72 Lot 7, which sale was evidenced by Certificate #16-00052; and

**WHEREAS**, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 12-7-17 and before the right to redeem was cut off, as provided by law, Title Consulting Services, LLC claiming to have an interest in said lands, did redeem said lands claimed by JU Solo 401K Trust by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$4,937.54 which is the amount necessary to redeem Tax Sale Certificate #16-00052.

**NOW THEREFORE BE IT RESOLVED**, on this 19th day of October 2017 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to JU Solo 401K Trust, 42 Huntington Rd, Basking Ridge, NJ 07920 in the **amount of \$6,237.54** (This amount consists of \$4,937.54 Certificate Amount + \$1,300.00 Premium).

**BE IT FURTHER RESOLVED**, that the Tax Collector is authorized to cancel this lien on Block 72 Lot 7 from the tax office records.

Motion made by Heinrich and seconded by Noone to approve Resolution 2017-233.

ROLL CALL: Heinrich, Higgins, Klimko, Noone, Norris, Thompson and Valle.  
Ayes: 7, Nays: 0  
Motion carried.

**RESOLUTION 2017-233**  
**A RESOLUTION TO REFUND TAX MONIES PER TAX COURT APPEAL**

**WHEREAS**, the Tax Collector has received a Tax Court Judgement received in 2017 for the years 2016 and 2017 for the property listed below:

| <u>BLOCK</u> | <u>LOT</u> | <u>NAME OF OWNER/<br/>PROPERTY LOCATION</u> | <u>YEAR</u> | <u>AMOUNT</u> |
|--------------|------------|---|-------------|---------------|
| 6            | 50         | Jersey Central Power & Light                | 2016        | 10,214.00     |
|              |            |   | 2017        | 10,578.00     |
|              |            |   | Total       | 20,792.00     |

Refund payable to: Stavitsky & Associates LLC, 350 Passaic Avenue, Fairfield, NJ 07004.

**WHEREAS**, due to Court Judgement Dockets #005065-2016 and #006629-2017 the assessed value for the improvement has been reduced from 1,348,800 to 1,148,800 which changes the amount of taxes due thus creating an overpayment; and

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey, to hereby authorize the Tax Collector to refund the above tax overpayment.

Motion made by Noone and seconded by Valle to approve Resolution 2017-234.

ROLL CALL: Heinrich, Higgins, Klimko, Noone, Norris, Thompson and Valle.  
 Ayes: 7, Nays: 0  
 Motion carried.

**RESOLUTION 2017-234**  
**A RESOLUTION AUTHORIZING THE ADJUSTMENT OF  
 A BOROUGH'S SEWER SERVICE CHARGE  
 DUE TO DISCONNECTION FROM THE SEWER SYSTEM**

**WHEREAS**, according to the Treasurer's records, a borough property located at 200-210 East Washington Avenue was disconnected from the Washington Borough Sewer system on November 6, 2017 and;

**WHEREAS**, the quarterly sewer invoice was being billed without interruption for the 2017 billing cycle and;

**WHEREAS**, the Borough Treasurer's office has received a written notification from Sewer Plant Manager, Kevin Shoudt that the sewer line was capped off. It was confirmed that the property at 200 East Washington Avenue was disconnected from the Washington Borough Sewer system. The property is currently under construction and will be reconnected to the main sewer line estimated in 2018.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to adjust the sewer account #1427-1 and #1428-1 with a zero balance which reflects the amount due at the time the sewer connection was capped.

| <u>BLOCK/LOT</u> | <u>PROPERTY OWNER/<br/>PROPERTY LOCATION</u>           | <u>FINAL BAL.<br/>AFTER CAP</u> |
|------------------|--|---------------------------------|
| 67/1             | Auto Zone Northeast, LLC<br>210 East Washington Avenue | \$ 0.00                         |
| 67/2             | Auto Zone Northeast, LLC<br>200 East Washington Avenue | \$ 0.00                         |

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Washington, in the County of Warren, State of New Jersey that the Borough Treasurer is authorized to adjust sewer balance on the above property location.

Motion made by Klimko and seconded by Valle to approve Resolution 2017-235.

ROLL CALL: Heinrich, Higgins, Klimko, Noone, Norris, Thompson and Valle.  
Ayes: 7, Nays: 0  
Motion carried.

**RESOLUTION 2017-235**  
**A RESOLUTION FOR REDEMPTION OF TAX CERTIFICATE**  
**As per N.J.S.A.54:5**

**KNOW ALL PERSONS BY THESE PRESENTS THAT, WHEREAS**, lands in the taxing district of Washington Borough, County of Warren, State of New Jersey, were sold on October 13, 2017 to Arthur Frustaci, 712 Rugby Road, Phillipsburg, NJ 08865, in the amount of \$173.80 for taxes or other municipal liens assessed for the year 2016 in the name of Kennedy, Michael J. & Theresa A. as supposed owners, and in said assessment and sale were described as 44 Grand Avenue , Block 14.01 Lot 6, which sale was evidenced by Certificate #17-00006; and

**WHEREAS**, I, the Collector of Taxes of said taxing district of the Borough of Washington, do certify that on 12-13-17 and before the right to redeem was cut off, as provided by law, PLS Title claiming to have an interest in said lands, did redeem said lands claimed by Arthur Frustaci by paying the Collector of Taxes of said taxing district of Washington Borough the amount of \$235.80, which is the amount necessary to redeem Tax Sale Certificate #17-00006.

**NOW THEREFORE BE IT RESOLVED**, on this 19th day of December, 2017 by the Mayor and Council of the Borough of Washington, County of Warren to authorize the Treasurer to issue a check payable to Arthur Frustaci, 712 Rugby Road, Phillipsburg, NJ 08865 in the **amount of \$335.80** (This amount consists of \$235.80 Certificate Amount redeemed + \$100.00 Premium).

**BE IT FURTHER RESOLVED**, that the Tax Collector is authorized to cancel this lien on Block 14.01 Lot 6 from the tax office records.

Motion made by Noone and seconded by Valle to approve Resolution 2017-236.

**ROLL CALL:**

Ayes: 4, (Heinrich, Higgins, Noone and Valle)

Nays: 3(Klimko, Norris and Thompson)

Motion carried.

**RESOLUTION 2017-236**

**RESOLUTION APPROVING PARTIAL PAYMENT #4 FOR DIAMOND CONSTRUCTION/JAK CONSTRUCTION IN THE AMOUNT OF \$79,284.94 FOR THE PROJECT COMMONLY KNOWN AS “ROUTE 57 MID BLOCK CROSSING REPLACEMENT”**

**WHEREAS**, the Borough Engineer has reviewed the work of Diamond Construction/JAK Construction (herein after “Diamond Construction”) and determined that the amounts contained in the attached tabulations are commensurate with the work performed thus far on the Route 57 Mid-Block Crossing Replacement Project;

**BE IT RESOLVED** by the Mayor and Borough Council of the Borough of Washington, County of Warren, State of New Jersey that Kevin Smith, Borough Engineer, recommends approval of partial payment # 1 to Diamond Construction, 35 Beaverson Boulevard., Suite 12C, Brick, NJ 08723 in the amounts of \$79,284.94 for the project commonly known as “Route 57 Mid Block Crossing Replacement.”

**Fireman Application Approval-Paul Uhl**

Motion made by Klimko and seconded by Noone to approve the application of Paul Uhl to the Fire Department.

ROLL CALL: Heinrich, Higgins, Klimko, Noone, Norris, and Valle.  
Ayes: 7, Nays: 0 Abstain: 1(Thompson)  
Motion carried.

**Vouchers and Claims**

Motion made by Heinrich and seconded by Noone to pay the vouchers and claims in the amount of \$230,947.64 from the current fund and \$81,735.64 from the sewer utility.

ROLL CALL: Heinrich, Higgins, Klimko, Noone, Norris, Thompson (*abstains from any Fire and EMS bills*) and Valle.  
Ayes: 7, Nays: 0  
Motion carried.

Mayor Higgins at this time explained circumstances surrounding Councilman Norris describing what he and others received in the mail recently. Mayor Higgins announced he is removing Councilman Norris from the streets committee.

Mayor Higgins stated he personally felt it was in the best interest of the Borough in light of Mr. Norris's criminal history to resign and asked for Mr. Norris's resignation, in which Mr. Norris declined to resign.

Mayor Higgins asked for a motion of no confidence.

Motion made by Heinrich and seconded by Noone to a vote of no confidence towards Councilman Norris.

ROLL CALL: Heinrich, Higgins, Noone, and Thompson.  
Ayes: 4, Nays: 1 (Klimko, Norris), Abstain: 1(Valle)  
Motion carried.

Mayor Higgins called a five-minute break.

Motion made by Heinrich and seconded by Noone to break from regular session for five minutes. All were in favor.

Meeting resumed with Mayor Higgins again asking for Mr. Norris's resignation from council for reasons stated previously. Again, Councilman Norris declined to resign.

## **Council Remarks**

Councilman Thompson wished everyone to enjoy the holiday and be safe.

Councilwoman Klimko wished everyone a Merry Christmas and Happy New Year.

Councilman Norris wished everyone a Merry Christmas.

Councilwoman Valle wished everyone a Merry Christmas.

Councilwoman Noone congratulated the new businesses in town and wished everybody a happy holiday.

Councilman Heinrich thanked the library for coming in tonight and concurred with statements on how important the library is. Councilman Heinrich wished everyone a health happy holiday and new year.

Mayor Higgins reported on the Washington Celebrates America committee receiving extra fireworks for their celebration next year, which will cost an additional \$3,000.00 It was the consensus of Council to add an additional \$3,000.00 to the budget for the 4<sup>th</sup> of July Fireworks celebration.

Mayor Higgins wished everyone a Merry Christmas and happy healthy new year. Mayor Higgins also thanked Mr. Monteverde with the Christmas tree lighting event and thanked the fire and police departments in their involvement.

## **EXECUTIVE SESSION**

A motion was made by Noone and seconded by Valle to approve a resolution authorizing executive session for the purpose of discussing a potential litigation matter, contract negotiations, and a personnel matter at 8:05 p.m.

Ayes: 7 Nays: 0  
Motion Carried.

### **RESOLUTION** **AUTHORIZING EXECUTIVE SESSION**

**WHEREAS**, the Open Public Meetings Act; *N.J.S.A. 10:4-6 et seq.*, declares it to be the public policy of the State to insure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which business affecting the public is discussed or acted upon; and

**WHEREAS**, the Open Public Meetings Act also recognizes exceptions to the right of the

public to attend portions of such meetings; and

**WHEREAS**, the Mayor and Council find it necessary to conduct an executive session closed to the public as permitted by the *N.J.S.A. 40:4-12*; and

**WHEREAS**, the Mayor and Council will reconvene in public session at the conclusion of the executive session;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey that they will conduct an executive session to discuss the following topic(s) as permitted by *N.J.S.A. 40:4-12*:

\_\_\_\_\_ A matter which Federal Law, State Statute or Rule of Court requires be kept confidential or excluded from discussion in public

(Provision relied upon: \_\_\_\_\_);

\_\_\_\_\_ A matter where the release of information would impair a right to receive funds from the federal government;

\_\_\_\_\_ A matter whose disclosure would constitute an unwarranted invasion of individual privacy;

\_\_\_\_\_ A collective bargaining agreement, or the terms and conditions thereof (Specify contract: \_\_\_\_\_);

\_\_\_\_\_ A matter involving the purpose, lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed; Real Estate Acquisitions

\_\_\_\_\_ Tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection;

\_\_\_\_\_ Investigations of violations or possible violations of the law;

Pending or anticipated litigation or contract negotiation in which the public body is or may become a party; (The general nature of the litigation or contract negotiations is: \_\_\_\_\_ The public disclosure of such information at this time would have a potentially negative impact on the municipality's position in the litigation or negotiation; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.)

\_\_\_\_\_ Matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his or her ethical duties as a lawyer; (The general nature of the matter is: \_\_\_\_\_)

\_\_\_\_\_ OR \_\_\_\_\_ the public disclosure of such information at this time would have a potentially negative impact on the municipality's position with respect to the matter being discussed; therefore this information will be withheld until such time as the matter is concluded or the potential for negative impact no longer exists.);

Matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective or current public officer or employee of the public body, where all individual employees or appointees whose rights could be adversely affected have not requested in writing that the matter(s) be discussed at a public meeting; (The employee(s) and/or general nature of discussion is: \_\_\_\_\_ the public disclosure of such information at this time would violate the

employee(s) privacy rights; therefore this information will be withheld until such time as the matter is concluded or the threat to privacy rights no longer exists.;

\_\_\_\_\_ Deliberation occurring after a public hearing that may result in the imposition of a specific civil penalty or loss of a license or permit;

**BE IT FURTHER RESOLVED** that the Mayor and Council hereby declare that their discussion of the subject(s) identified above may be made public at a time when the Borough Attorney advises them that the disclosure of the discussion will not detrimentally affect any right, interest or duty of the Borough or any other entity with respect to said discussion.

**BE IT FURTHER RESOLVED** that the Mayor and Council, for the reasons set forth above, hereby declare that the public is excluded from the portion of the meeting during which the above discussion shall take place.

A motion was made by Noone seconded by Klimko to come out of Executive Session.

Ayes: 7; Nays: 0  
Motion Carried.

Motion made by Noone and seconded by Klimko to approve Resolution 2017-237.

ROLL CALL: Heinrich, Higgins, Klimko, Noone, Norris, Thompson and Valle.  
Ayes: 7, Nays: 0  
Motion carried.

**RESOLUTION 2017-237  
BOROUGH OF WASHINGTON  
WARREN COUNTY, NEW JERSEY**

**RESOLUTION AWARDING THE CONTRACT FOR SOLID WASTE, YARD WASTE  
AND RECYCLABLE MATERIALS AND COLLECTION AND DISPOSAL SERVICES  
TO BLUE DIAMOND DISPOSAL, INC.**

**WHEREAS**, the Borough of Washington (the “Borough”) issued bid specifications for a contract for solid waste, yard waste, and recyclable materials collection and disposal services; and

**WHEREAS**, at the bid opening on August 31, 2017, the Borough received two responses from LMR Disposal Services, LLC (“LMR”) and Blue Diamond Disposal, Inc., as follows:

**LMR Disposal, LLC**

| Year | Base Bid  | Option #1<br>(Collection of bulk household waste curbside twice annually) | Option #2<br>(Collection of bulk household waste once annually at public works garage) |
|------|-----------|---|--|
| 2018 | \$264,500 | \$19,500  | \$8,800  |
| 2019 | \$264,500 | \$19,500  | \$8,800  |
| 2020 | \$264,500 | \$19,500  | \$8,800  |

**Blue Diamond**

| Year | Base Bid  | Option #1<br>(Collection of bulk household waste curbside twice annually) | Option #2<br>(Collection of bulk household waste once annually at public works garage) |
|------|-----------|---|--|
| 2018 | \$300,000 | \$36,000  | \$48,000   |
| 2019 | \$309,080 | \$37,000  | \$52,000   |
| 2020 | \$318,400 | \$38,000  | \$56,000   |

**WHEREAS**, by resolution dated October 3, 2017, the Borough awarded the contract to LMR;

**WHEREAS**, Blue Diamond appealed the Borough’s decision by Order to Show Cause (Blue Diamond Disposal, Inc. v. Borough of Washington, et al., Docket No. WRN-L-289-17);

**WHEREAS**, the Borough, Blue Diamond, and LMR submitted briefs to the Court and appeared before the Honorable John H. Pursel, J.S.C. on December 13, 2017 for a hearing on the matter;

**WHEREAS**, after such hearing Judge Pursel issued an oral opinion ordering that the contract be awarded to Blue Diamond;

**WHEREAS**, the Borough’s Chief Financial Officer has determined that Blue Diamond’s base bid does not “substantially [exceed] the cost estimates for the goods or services” pursuant to N.J.S.A. 40A:11-13.2;

**WHEREAS**, the Borough’s Chief Financial Officer has determined that Blue Diamond’s bid for bulk household waste pick-up (Options #1 and #2) “substantially [exceed] the cost estimates for the goods or services” pursuant to N.J.S.A. 40A:11-13.2; and

**WHEREAS**, the Borough has determined that it is in its best interested to reject the bids for Options #1 and #2 and advertise for bids for bulk waste pick up.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Washington, County of Warren, State of New Jersey, as follows:

1. In compliance with the Court’s order issued in Blue Diamond Disposal, Inc. v. Borough of Washington, et al., Docket No. WRN-L-289-17, the bid for a contract for solid waste, yard waste, and recyclable materials collection and disposal services is awarded to Blue Diamond Disposal, Inc. with regard to the Base Bid.
2. Subject to the approval by the Borough Attorney as to form, the Mayor and the Borough Clerk are hereby authorized and directed to execute a contract for the same.
3. Pursuant to N.J.S.A. 40A:11-13.2 Blue Diamond’s bid for bulk household waste pick up is rejected and the Borough Clerk and Manager are authorized to take all steps to advertise and re-bid a contract for such services.

Chief Cicerelle was asked by Mayor Higgins to explain the circumstances under which Mr. Norris applied for a purchaser permit and was ultimately denied.

Chief Cicerelle stated based on what occurred regarding a request from Mr. Norris inquiring about GPS on police vehicles and the denial of a firearm permit, which he stressed he cannot go into detail, stated that his concerns were a potential conflict concerning voting issues with the police. Chief Cicerelle referred his concerns to the Prosecutors office for guidance on the situation.

Attorney Parikh stated she will look more into cases concerning abstentions where there is a potential conflict.

**ADJOURNMENT**

Hearing no further business, a motion was made by Klimko seconded by Valle to adjourn the meeting at 9:50 pm.

Ayes: 7; Nays: 0  
Motion Carried.

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Mayor David Higgins

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Laurie A. Barton, Borough Clerk